

DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

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November 21, 2008

DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS**Adoption of Section 9550, Title 9,
California Code of Regulations****OFFENDER TREATMENT PROGRAM****Notice of Rulemaking and Public Comment Period**

NOTICE IS HEREBY GIVEN that the California Department of Alcohol and Drug Programs (ADP) proposes to adopt a new regulation at Section 9550, Title 9, California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

Existing regulations in Chapter 2.5 (commencing with Section 9500), Division 4, Title 9 of the CCR establish standards for the Substance Abuse and Crime Prevention Act (SACPA) of 2000 and the Substance Abuse Treatment and Testing Accountability (SATTA) Program. This regulatory action will adopt new Chapter 2.6 and Section 9550, which will implement, interpret, and make specific Health and Safety Code (HSC) Section 11999.30 by establishing standards for the Offender Treatment Program (OTP), which is related to the SACPA and SATTA as explained below.

HSC 11999.30 established the OTP, charged the Department of Alcohol and Drug Programs (ADP) with administration of the OTP, and authorized ADP to distribute state funds to counties to augment their Substance Abuse and Crime Prevention Act of 2000 (SACPA) programs.

Section 9550 will codify existing ADP policy into regulation. Specifically, Section 9550 will establish a process for distributing funds to enhance services for individuals sentenced to alcohol and other drug treatment in lieu of incarceration services under SACPA. OTP funds will be used to enhance alcohol and drug treatment services, increase the proportion of sentenced offenders who enter, remain in, and complete treatment, and reduce delays in availability of appropriate treatment. Five percent of county OTP funds may also be used to provide mental health services for SACPA eligible offenders with co-occurring disorders.

AUTHORITY:

These regulations are being adopted pursuant to Section 11755 of the Health and Safety Code.



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<http://www.flexyourpower.ca.gov>

REFERENCE:

The statutory reference for this regulatory action is Section 11999.30 of the Health and Safety Code

FISCAL IMPACT STATEMENTS:

Anticipated costs or savings to federal funding to the state:

None because no federal funding is involved and this regulatory action merely codifies existing policy.

Anticipated costs or savings to state agencies:

None because this regulatory action merely codifies existing policy.

Anticipated costs or savings to county or local government:

None because this regulatory action merely codifies existing policy.

Anticipated fiscal or economic impact on business:

None because this regulatory action merely codifies existing policy. ADP has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This regulatory action will not affect the ability of California businesses to compete with businesses in other states, as other states already require certification of AOD counselors. This regulatory action will not affect the creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

Anticipated fiscal or economic impact on small businesses:

This regulatory action will impact small businesses, since most AOD programs are small businesses. However this regulatory action will not result in any negative impact or cost to small businesses because it merely codifies existing policy.

Impact on Representative Private Persons or Businesses:

The ADP is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Mandate to Local Agencies or School Districts:

ADP has determined that this regulatory action will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be

reimbursed by the State pursuant to Part 7 (commencing with Section 17500), Division 4 of the Government Code.

Other Non-discretionary Costs or Savings Imposed upon Local Agencies:

None.

Impact on Housing Costs:

ADP does not anticipate that this regulatory action will impact housing costs in any way.

WRITTEN COMMENT PERIOD:

Any interested person or his authorized representative may submit written comments on the proposed regulatory action. **The written comment period closes at 5 p.m. on January 5, 2009.** Please submit any written comments before that time.

ADP cannot accept written comments after the close of the public comment period.

Please send written comments to Mary Conway, Regulations Coordinator, Department of Alcohol and Drug Programs, 1700 K Street, Sacramento, CA 95814. Comments may also be submitted by fax at (916) 323-5873 or e-mail at

MCONWAY@ADP.STATE.CA.US.

SCOPE OF TESTIMONY:

Section 11346.8(c) of the Government Code prohibits ADP from making any changes to the text of a noticed regulation after the public hearing, unless the change was so sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed action. Therefore please make your comments specific to the regulation discussed in this notice. Please indicate the number of the section you would like changed, the specific change requested, and the reason why you would like the section changed. Since ADP cannot make changes to sections of regulations which were not mentioned in this public notice, during the public comment period ADP will not consider testimony regarding changes which are outside the scope of this notice.

If you wish to request ADP to amend, adopt, or repeal additional sections of regulation, ADP is required to consider those changes in a separate regulatory action.

PUBLIC HEARING:

ADP has not scheduled a public hearing on the proposed regulatory action. However, if any person wishes to submit oral comments, ADP will schedule a public hearing upon receipt of that person's written request. Such request must be received at the address shown above no later than 15 days prior to the close of the written comment period.

CONSIDERATION OF ALTERNATIVES:

Pursuant to Section 11346.5(a)(13) of the Government Code, ADP must determine that no reasonable alternative considered by ADP or that has otherwise been identified and brought to the attention of ADP would be more effective in carrying out the purpose for which this regulatory action was taken. ADP must also determine that no alternative would be as effective and less burdensome to affected private persons than the regulatory action taken. ADP will consider any alternatives presented during the public comment period.

ADDITIONAL CHANGES:

ADP may modify the proposed regulation in response to testimony received during the 45-day public comment period, so long as any additional changes made are sufficiently related to the proposed regulatory action and within the scope of this notice. ADP will make available to any interested persons, for at least 15 days prior to the date on which ADP adopts, amends, or repeals the resulting regulation, the full text of any regulation which is changed or modified from the express terms to this regulatory action. ADP will mail a copy of the additional changes to any person who testified or submitted comments during the public hearing (if one is requested), who submitted written comments during the 45-day public comment period, or who requested copies of additional changes. Please call ADP's regulations coordinator at (916) 327-4742 if you wish to receive a copy of any additional changes and you do not plan to present comments regarding the proposed regulatory action.

AVAILABILITY OF TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS:

ADP has prepared and has available for review upon request the text of the proposed regulations discussed in this notice, written in plain English; an initial statement of reasons, explaining the necessity for each regulatory change; and all the information upon which the proposed regulations were based. To obtain a copy, please call Mary Conway at (916) 327-4742 or write to her at the address shown on the first page of this notice. If you received this public notice in the mail, the text of the proposed regulation and the initial statement of reasons were enclosed. The proposed regulations and initial statement of reasons are also available on ADP's web site at <http://www.adp.ca.gov>.

PERSON TO CONTACT FOR ADDITIONAL INFORMATION:

ADP's contact for this regulation package is Millicent Gomes at (916) 445-7456. The back up contact is Harriet Schaeffer at (916) 322-7319.

FINAL STATEMENT OF REASONS:

After the close of the 45-day public comment period, ADP will summarize and respond to all public comments in a written final statement of reasons. The final statement of reasons will be posted on ADP's web site at <http://www.adp.ca.gov>.

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